

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 2486 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and Sd/-

MR.JUSTICE R.P.DHOLAKIA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 - No

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PARESH JOSHI

Versus

PK JHA

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Appearance:

MR YN OZA for Petitioner

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CORAM : MR.JUSTICE B.C.PATEL and  
MR.JUSTICE R.P.DHOLAKIA

Date of decision: 16/03/98

ORAL JUDGEMENT (Per: B.C.Patel,J)

On being questioned, learned advocate stated that no proceedings are pending in the court of law, i.e. to say, no charge-sheet is filed and no cognizance is taken. Yet, the petitioner has approached this Court by stating

that the contempt is committed by the respondent Officer by interfering with the administration of justice. It appears that, the accused in C.R. No.441 of 1996 registered for an offence punishable under sec.379 of Indian Penal Code at Umra Police Station has been released on bail by Police Inspector himself on 7-11-1996 as per Annexure-C at page 38. It appears that she was arrested on 2-11-1996 at 1700 hours. She was admitted in the V.S.Hospital as an indoor patient and when the report was forwarded, she was under treatment. The Police Inspector, Umra Police Station has submitted that there is a report that she has been released on bail. At page 39, there is another report indicating that she has been released on bail. It appears that, thereafter the investigating officer submitted the report under Sec.169 of Criminal Procedure Code on 8-3-1997 vide Annexure-F at page 49 disclosing that she was arrested on 2-11-1996 and thereafter she was released on bail. As muddamal article is not recovered from her and there is no sufficient evidence to charge-sheet her and hence, she may be released under Sec.169 of Cr.P.C. It appears that the Magistrate rejected the application on 3-10-1997 particularly by observing that the crime is being investigated by CID Crime. It appears that on 3-10-1997, the Police Inspector, CID Crime was directed to submit a report to the Court.

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#. It appears that, vide Annexure-F, the Inspector of Police, CID Crime, Surat, submitted an application for issuance of non-bailable warrant against the accused which was fixed for hearing and ultimately it appears that, bailable warrant was issued on 2-12-1997. Vide Annexure-H, it appears that, the charge-sheet is filed against the accused and hence, the Police Inspector, CID Crime was directed that she may be released on bail in the sum of Rs.500/- on giving a bond to remain present before the Court. It appears that, thereafter on several dates warrants have been issued. But on one reason or the other, it could not be served. The reports are also submitted in detail. In one of the reports, it is indicated that her whereabouts are not known (report dated 7-12-1997 vide Annexure-K). It appears that, vide exh.30, CID Crime, Inspector of Police, submitted an application to the Judicial Magistrate (First Class) for cancellation of warrant. The learned Magistrate after considering the reasons, allowed the application by recalling the non-bailable warrant. Thus, by a judicial order application is allowed. That order can be challenged before appropriate forum.

#. The learned advocate submits that by this application, the Officers are interfering with the administration of justice and thereby they are committing contempt.

#. We find no merits in the application. Merely because the investigating officer has submitted an application for recalling the warrant which is not executed for the reasons given in his application, it cannot be said that said Officer is interfering with the trial, more particularly the said Officer was making applications for issuance of non-bailable warrants earlier and he was making efforts to serve the

non-bailable warrant through his subordinate. In view of this, this application is required to be rejected. Hence, rejected.

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